

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Terry Tanner and William Barrow, as
Trustees of the International Brotherhood of
Electrical Workers Local 332 Health and
Welfare and Pension Trust Funds, NEBF,
JEIF, NECA Service Charge, NECA, Dues
Check Off and Apprenticeship Training
Trust Funds,

NO. C 05-00987 JW

DEFAULT JUDGMENT

Plaintiff(s),

v.

Zap Electric, Inc., a California Corporation,

Defendant(s).

Plaintiffs Terry Tanner and William Barrow, as Trustees of the International Brotherhood of Electrical Workers Local 332 Health and Welfare and Pension Trust Funds, NEBF, JEIF, NECA Service Charge, NECA, Dues Check Off and Apprenticeship Training Trust Funds ("Plaintiffs") filed a motion for default judgment, and noticed the motion for hearing on February 6, 2006. The Court finds it appropriate to take the motion under submission for decision based on the papers filed by the parties without oral argument pursuant to Civil Local Rule 7-1(b). Based upon all papers filed to date, the Court grants Plaintiffs default judgment in the total sum of \$30,880.65.

On March 8, 2005, Plaintiffs initiated this action for employee benefits under the Employee Retirement Income Security Act of 1974, 28 U.S.C. §1132, for the period October 2004 to January 2005. Defendant Zap Electric, Inc. failed to answer, and accordingly the Clerk of Court entered default on November 2, 2005. Plaintiffs thereafter filed the instant motion for default judgment

1 pursuant to Rule 55(b)(2), Fed.R.Civ.P.

2 Defendant Zap Electric, Inc. has provided documentation to Plaintiffs verifying that
3 employee benefits for the months of October 2004 through February 2005 is \$34,948.15. Defendant
4 made payments totaling \$15,236.92, leaving a balance of \$19,711.23. Pursuant to Act, Plaintiffs are
5 entitled to attorney's fees, interest and liquidated damages. 29 U.S.C. §1132(g)(2). The terms of the
6 parties' collective bargaining agreement also provide for liquidated damages equal to 10% of the
7 benefits owed.

8 Accordingly, the Court awards Plaintiffs \$19,711.23 in benefits, \$3,494.82 in liquidated
9 damages, \$1,642.60 in interest at 10% for February 1, 2005 through December 1, 2005; \$5,425.00 in
10 attorney's fees, and \$607 in costs, for a total judgment of \$30,880.65.

11 Dated: January 19, 2006

12 05cv987default

/s/James Ware

JAMES WARE

United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Sue Campbell suecampbell@att.net

3 **Dated: January 19, 2006**

Richard W. Wieking, Clerk

5 **By: /s/JW Chambers**

Melissa Peralta

Courtroom Deputy